UNITED STATES DISTRICT COURT DISTRICT OF NEVADA

GILBERTO CARRILLO,

Case No. 3:21-cv-00423-MMD-CLB

Plaintiff,

ORDER

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KATHY THOMAS, et al.,

Defendants.

I. DISCUSSION

On September 23, 2021, this Court ordered Plaintiff to file a signed complaint and a fully complete application to proceed *in forma pauperis* or pay the full \$402 filing fee on or before November 22, 2021. (ECF No. 3). On September 28, 2021, Plaintiff filed a fully complete application to proceed *in forma pauperis*. (ECF No. 4). To date, Plaintiff has not submitted a signed complaint in this case.

Under Rule 11 of the Federal Rules of Civil Procedure, a plaintiff who is not represented by counsel is required to sign his complaint. Fed. R. Civ. P. 11(a). Because the Plaintiff's original complaint (ECF No. 1-1) was submitted unsigned, the Court cannot consider it.

The Court will grant Plaintiff <u>one final opportunity</u> to submit a signed amended complaint to the Court on or before <u>December 29</u>, <u>2021</u>. If Plaintiff chooses to file an amended complaint, he is advised that an amended complaint supersedes (replaces) the original complaint and, thus, the amended complaint must be complete in itself. See Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc., 896 F.2d 1542, 1546 (9th Cir. 1989). Therefore, a mere signature page will not be sufficient. Plaintiff should file the amended complaint on this Court's approved prisoner civil rights form, and it must be entitled "First Amended Complaint." The Court will defer a decision on the application to proceed in forma pauperis until Plaintiff submits a proper initiating document for this case.

II. CONCLUSION

For the foregoing reasons, IT IS ORDERED that a decision on the application to proceed *in forma pauperis* (ECF No. 4) is deferred.

IT IS FURTHER ORDERED that the Clerk of the Court will send to Plaintiff the approved form for filing a § 1983 complaint, instructions for the same, and a copy of his original unsigned complaint. (ECF No. 1-1). If Plaintiff files an amended complaint, he should use the Court's approved form and he must write the words "First Amended" above the words "Civil Rights Complaint" in the caption.

IT IS FURTHER ORDERED that, if Plaintiff does not file a signed amended complaint on or before **December 29, 2021**, this case will be subject to dismissal <u>without prejudice</u> for Plaintiff to refile the case with the Court, under a new case number, when Plaintiff is able to file a signed amended complaint.

DATED: December 1, 2021

UNITED STATES MAGISTRATE JUDGE